

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. (4) JASON MICHAEL LAWRENCE, Defendant.	5:12-CR-50088-JLV ORDER DENYING REQUEST TO ATTEND CHANGE OF PLEA AND SENTENCING HEARINGS VIA VIDEO [DOCKET NO. 172]
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Defendant Jason Michael Lawrence filed a plea agreement, plea agreement supplement, and statement of factual basis in this matter on September 12, 2014. See Docket Nos. 168, 169, & 170. The plea agreement indicates that Mr. Lawrence intends to plead guilty to a Class A misdemeanor punishable by up to one year imprisonment and a \$100,000 fine. Id.

On September 15, 2014, Mr. Lawrence, through his counsel, filed a motion pursuant to FED. R. CRIM. P. 43(b)(2) seeking the court's permission to appear by video for his change of plea hearing and for his sentencing. See Docket No. 172. Rule 43(b)(2) provides as follows:

A defendant need not be present under any of the following circumstances:

* * *

The offense is punishable by fine or by imprisonment for not more than one year, or both, and with the defendant's written consent, the court permits arraignment, plea, trial, and sentencing to occur by video teleconferencing or in the defendant's absence.

See FED. R. CRIM. P. 43(b)(2).

Pursuant to the requirement of Rule 43(b)(2) that the defendant consent in writing to the holding of a change of plea or sentencing hearing via video teleconferencing, the court immediately contacted Mr. Lawrence's counsel after the filing of the motion to notify counsel the court would not grant the motion until a written consent from Mr. Lawrence was filed with the court. It has been over one month since the motion to proceed by video was filed. Mr. Lawrence represented that the consent was already in the mail eleven days ago. A check of the court's docket today reveals that no such consent has been received by the court.

Accordingly, no good cause appearing, it is hereby ORDERED that Mr. Lawrence's motion to appear by video for his change of plea and sentencing [Docket No. 172] is denied. The clerk's office will contact counsel for both parties to schedule an in-person change of plea hearing in the near future.

DATED this 20th day of October, 2014.

BY THE COURT:



VERONICA L. DUFFY
United States Magistrate Judge